IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

CIVIL REVISION NO. 205 (MS) OF 2001
(Old No. 531/1998)

Engineer-in-Chief Army Headquarter. ....Revisionist.

Versus

Prem Singh …….. Respondents.

HON'BLE RAJESH TANDON, J.

Heard learned counsel for both the parties.

By the present Revision the applicant has challenged the order dated 9.9.1988 by which the application under Section 20 read with Section 8 of the Arbitration Act has been allowed and the respondent no. 2 Engineer in Chief Army Headquarter has been directed to decide the dispute within one month in accordance with the terms of agreement.

Counsel for the applicant has submitted that a contract agreement was executed between the parties on 18.9.1987 in which the date of commencement of the work was shown as 12.10.1987 and the said work has been completed on 30.07.1990. Final Bill was prepared and the same was paid to the Contractor to the tune of Rs. 15,811.00.

Counsel for the applicant has filed present Revision on the ground that after making the aforesaid payment towards final Bill no objection was raised by the respondent no.2 and therefore, there is no dispute between the parties.

On the application filed by the respondent on 28.2.1994 before the Competent Authority raising certain disputes the impugned order has been passed U/s 20 read with Section 8 of the Arbitration Act along with the application and thereby appointing Arbitrator to decide the dispute in accordance with Clause 17 of the Agreement.

Counsel for the applicant has also raised a question with regard to the fact that Suit itself was barred by limitation.

However, liberty is given to the parties to raise the dispute including the maintainability of the Arbitration proceeding as to whether the suit was within the time or not. It will be open to the Arbitrator to decide the entire dispute between the parties as per directions of the learned Civil Judge dated 9.9.1998.

Subject to the aforesaid observation, the Revision is dismissed, no order as to costs.

(RAJESH TANDON, J.)

04.10.2004
P.S. Rathour